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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,752	06/26/2003	Mark A. Pickering	PIC001-049	3793
7590	03/21/2005		EXAMINER	
DIEDERIKS & WHITELAW, PLC #301 12471 Dillingham Square Woodbridge, VA 22192			COCKS, JOSIAH C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/603,752	PICKERING, MARK A.
	<b>Examiner</b> Josiah Cocks	<b>Art Unit</b> 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on amendment filed 12/16/2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 and 17-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 15 and 17-19 is/are allowed.  
 6) Claim(s) 1-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### *Response to Amendment*

1. Receipt of applicant's amendment filed 12/16/2004 is acknowledged.

### *Claim Rejections - 35 USC §§ 102 & 103*

2. The following are quotations of the appropriate paragraphs of 35 U.S.C. §§ 102 & 103 that form the basis for the rejections under this section made in this Office action:

#### 35 USC § 102

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### 35 USC § 103

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,349,714 to Hurley et al. (“Hurley”).

Hurley discloses in Figures 1-15 a cooking appliance substantially as described in applicant's claims 1 and 7-9. In particular, Hurley discloses a cook-top (Fig. 1), at least one gas burner assembly (24), and a wire coil (44) arranged adjacent to the at least one burner assembly. The wire coil receives electrical energy and is heated to a temperature to ignite the gaseous fuel

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supplied to the burner and controlled by valve (86) (see col. 4, lines 48-60). Hurley specifies that a portion or portions of coil (44) may be heated to serve as a "glow wire" portion to ignite gaseous fuel present (col. 4, lines 56-57) and that the coil is further heated by the combustion gases thereby functioning as a re-radiant coil (see col. 7, lines 7-15). Therefore, the examiner considers that those portions of the coil (44) that serving as "glow wires" properly constitute the wire filament claimed by applicant and the remaining portions of the coil thereby function as the re-radiant coil. Further, as shown in Figure 12, the wire coil (44) includes a central circular portion and four individual segments outside the central coil and adjacent the gas burner assembly (24). The examiner considers that a person of ordinary skill in the art would reasonably select the outer segments to be the portions of the coil operating as the "glow wires" and such selection would therefore be obvious based on the teaching of one or more portions of the coil functioning as "glow wires."

In regard to the recitation of a control unit, the examiner considers that it would inherent in the disclosure of Hurley that a control unit would exist to control the electrical energy supplied to the wire coil (44). Also, while Hurley states that the coil is heated to ignite gaseous fuel present, the heating is not dependent upon the presence of the gaseous fuel. Thus, the control unit would be capable of, and is thus considered to be adapted to, heat the coil portions in the absence of a flow of gas to the burner (i.e. in a "second mode"). Further, when these "glow wires" are activated they would be capable of causing some minimal degree of heating of the cooking zone independent of the gaseous fuel combustion. Accordingly, the "glow wires" are considered to be adapted to heat the cooking zone to a temperature less than a cooking temperature.

4. Claims 2-6 and 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hurley, as applied above, in view of U.S. Patent No. 1,716,329 to Simpson ("Simpson") (cited by applicant).

While Hurley appears to teach that portions of the wire coil (44) acting as "glow wires" are activated independently of the rest of coil, it is not clear that the disclosure if the multiple "glow wire" segments are operated independently from one another.

However, Simpson teaches a combination electric and gas stove in the same field of endeavor as Hurley. In Simpson, electrical energy is supplied to a plurality of heating elements (4 and 5) that are operable independently of one another (see Simpson, page 1, lines 50-53). The examiner considers that because these elements are operable independently they are also capable of being operated at the same time and thus concurrently with one another.

In regard to the limitation that the segments each operate on 40 watts of electrical energy, Hurley clearly discloses that electrical energy is supplied to the wire coil to cause heating of portions of the wire coil but does not go into detail as to the amount of energy supplied. Therefore, a person of ordinary skill in the art would consider that it would be simply a matter of optimization of the prior art though routine experimentation to determine an appropriate electrical energy value (such as 40 Watts) to be supplied to the heat coils. See MPEP § 2144.05(II)(A).

Therefore, in regard to claims 2-6, it would have obvious to a person of ordinary skill in the art at the time the invention was made to modify the wire coil of Hurley to incorporate operating a plurality of heating segments independently as taught by Simpson as it is recognized

in the art that it is desirable to an operator of the device to provide independent operation of multiple electric heating components in a gas and electric combination range (see Simpson, page 1, lines 50-53).

***Allowable Subject Matter***

5. Claims 15 and 17-19 are allowed.

***Response to Arguments***

6. Applicant's arguments filed 12/16/2004 with respect to claims 1-14 have been fully considered but they are not persuasive. As noted above, the prior art, as now applied, is considered to teach all the limitations of applicant's claims.

***Conclusion***

7. The prior grounds of rejection have been modified in this Office action. Accordingly, this action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

8. The U.S. Patent to Hurley relied upon was listed incorrectly on the prior PTO-892 form. This reference is properly recited on the PTO-892 form included with this Office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc  
March 14, 2005

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749